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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,944	02/08/2002	Isamu Yamaguchi	219229US0	6617
22850	7590	12/27/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			NUTTER, NATHAN M	
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/067,944

Applicant(s)

YAMAGUCHI ET AL.

Examiner

Nathan M. Nutter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

This application has been re-assigned to Examiner Nathan M. Nutter in Art Unit 1711. All inquiries regarding this application should be directed to Examiner Nutter at telephone number 571-272-1076.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 17 October 2005 has been entered.

#### ***Response to Arguments***

In view of applicants' Response filed 17 October 2005, the following is placed in effect.

The rejection of claims 1-5 and 7-12 under 35 U.S.C. 103(a) as being unpatentable over Applicants' own disclosure (on page 8, line 25 to page 9, line 7) of the instant specification in view of Okamoto et al (US 4,595,394) is hereby expressly withdrawn.

The rejection of claim 6 under 35 U.S.C. 103(a) as being unpatentable over Applicants' own disclosure in view of Okamoto et al (US 4,595,394) and in view of Wold (US 5,435,954) is hereby expressly withdrawn.

The following new grounds of rejection are being made.

### ***Specification***

The abstract of the disclosure is objected to because:

A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

Correction is required. See MPEP § 608.01(b).

### ***Oath/Declaration***

The Declaration of Isamu Yamaguchi, filed 17 October 2005, under 37 C.F.R. 1.132 has been reviewed and considered. The Declaration is not deemed to be conclusive regarding any particular threne dyes since all dyes recited in claim 1 were not compared with any substantial number of alternative dyes. Too little evidence is presented to make any such sweeping conclusions as proffered by counsel that "threne dyes provide heat discoloration resistance and weatherability that is superior to a particular direct dye and a particular reactive dye." Nothing in the claims is drawn to either feature. The Declaration is not deemed to be supportive of patentability as drawn to any particular threne dyes employed and recited herein.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kondou et al (EP 1 041 102 A1), cited by applicants, taken with Hinckley (US 3,112,982), Sato et al (US 4,244,690) or Blumenberg et al (US 6,797,015), all newly cited.

The reference to Kondou et al (EP 1 041 102 A1) teaches the manufacture of a resin composition comprising fibers of "viscose cellulose mass-colored with pigments," wherein the resin composition is identical to that as disclosed and recited in instant claim 6. Note the Abstract and paragraphs [0007], and [0010] which teaches the use of anthraquinone dyes, which comprise the threne dyes employed herein. Note paragraphs [0015] and [0016] which teach the identical resin composition as recited herein. Finally, note the many Examples. The reference does not show the use the specific threne dyes for cellulose, viscose or cotton, as herein claimed. The reference does disclose the fibers as being "mass-colored."

The references to Hinckley (US 3,112,982), Sato et al (US 4,244,690) or Blumenberg et al (US 6,797,015) all teach the conventionality of using the specific threne dyes recited in claim 1 with cellulose fibers; including viscose and cotton, as recited in claim 2, with a pre-dying process.

The reference to Hinckley (US 3,112,982) teaches the use of C.I. Vat Red 10, C.I. Vat Blue 14, C.I. Vat Green 1 and C.I. Vat Black, as recited in claims 1 and 13 for dying rayon (viscose cellulose). Note column 1 (lines 50-69) for the fibers and column 2 (lines 15-50) for the specific dyes.

The reference to Sato et al (US 4,244,690) teaches the use of C.I. Vat Red 10, C.I. Vat Violet 1 and C.I. Vat Black, as recited in claims 1 and 13 for dyeing cotton and viscose rayon, as recited in claim 2. Note column 3 (lines 1-7) for the fibers and Table 4 at column 6 (lines 15-28) for the specific dyes.

The reference to Blumenberg et al (US 6,797,015) teaches the use of C.I. Vat Green 1, as recited in claim 1 for dyeing cellulose fibers, including viscose, as recited in claim 2. Note the paragraph bridging column 3 to column 4 for the fibers and column 5 (lines 7-32) for the specific dye.

The reference to Kondou et al (EP 1 041 102 A1) teaches the basic concept. Choice of a filler that is pre-dyed is clearly within the skill of an artisan. Further, the recitations of particular size for the fibers do not lend patentability to the claims since these sizes are deemed to be a matter of aesthetic choice and availability of materials as well as costs. The secondary references all teach the conventionality of using the dyes claimed. The primary reference teaches the desirability of using mass-colored fibers as a suitable filler in the matrix. As such, the recitations of the instant claims would clearly be obvious over the teachings of the references. No unexpected or surprising results have been shown on the record.

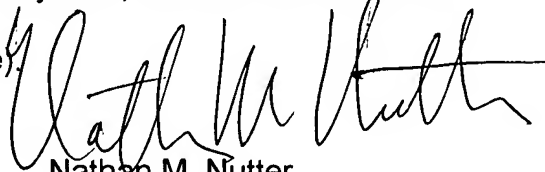
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Nathan M. Nutter", is written over the printed name and title.

Nathan M. Nutter  
Primary Examiner  
Art Unit 1711

nmn

22 December 2005